

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Walla Walla District

FILE NUMBER: NWW No. 041400060

REGULATORY PROJECT MANAGER: Gregg A. Rayner **Date:** September 29, 2004

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** N **Date:** _____
At the project site (Y/N) Y **Date:** August 27, 2004

PROJECT LOCATION INFORMATION:

State: Idaho

County: Kootenai

Center coordinates of site by latitude & longitudinal coordinates: _____

Approximate size of site/property (including uplands & in acres): 30 acres

Name of waterway or watershed: isolated wetlands near Rathdrum Creek

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream	x								
Dry Wash									
Mudflat									
Sandflat									
Wetlands									
Slough									
Prairie pothole									
Wet meadow				x					
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			x		
Is or would be used as habitat by other migratory birds that cross state lines?			x		
Is or would be used as habitat for endangered species?				x	
Is used to irrigate crops sold in interstate commerce?				x	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary _____ Or Approved X

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

The wetland is wet meadow located at the discharge point of a small, localized drainage basin. The wetland is dominated by hydrophytic vegetation. Storm water runoff and snow melt flow through the meadow eventually exiting the property via a 1-foot culvert under Hidden Valley Road. From here the flow goes underground. There is no apparent surface or hydrologic connection to any other surface water. The wetland is not boatable. The wetlands are not bordering or contiguous with any other waters of the United States. There is no apparent interstate commerce use of these wetlands, except they are likely used by migratory birds. Based on Solid Waste Agency of Northern Cook County v U.S. Army Corps of Engineers, 531 U.S. 159 (2001), where the United States Supreme Court held that isolated, non-navigable, intrastate waters are not jurisdictional under the Clean Water Act, if the sole interstate commerce nexus is the use of such waters by migratory birds, these wetlands are not subject to CWA jurisdiction. An approved JD has been prepared for the project.